

AT 2036.00

## Certificate of Mailing/Transmission (37 C.F.R. § 1.10(a)):

[ X ] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Office of Petitions, Box DAC, Commissioner for Patents at Facsimile No. (703) 308-6916.

Dated: March 7, 2003Name of Person Certifying:  
Printed Name:Peggy Nichols  
Peggy Nichols

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Thomas A. SILVESTRINI

U.S. Application. No.: 08/993,946

Filing Date: December 18, 1997

For: CORNEAL IMPLANT METHOD AND  
PLIABLE IMPLANT THEREFOR

Examiner: D. Willse

Group Art Unit: 3738

Box DAC  
Attn: Office of Petitions  
Commissioner for Patents  
Washington, D.C. 20231

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PETITIONS OFFICE

## SUPPLEMENTAL COMMUNICATION

Sir:

On January 17, 2003, an Amendment and Response to Final Office Action was filed in connection with the above-identified application. A Request for Continuing Examination (RCE) transmittal was to be concurrently filed on January 17, 2003, but was inadvertently and unintentionally omitted and consequently not filed at that time. Applicant's undersigned attorney believes that due to the failure to include the RCE transmittal, a Notice of Abandonment will be issued in due course. Accordingly, in order to avoid delay and continue with the prosecution of the subject application, enclosed herewith is a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) including the RCE transmittal (further requesting entry of the previously filed amendments).

Applicant respectfully requests entry of the amendments to the claims and consideration of the accompanying remarks as filed on January 17, 2003.

No additional fee, other than the Petition fee and fee for the filing of an RCE is considered necessary. However, Applicant authorizes the Commissioner to charge the cost of the petition fee, RCE fee and/or other fees which may be considered necessary by the Commissioner in connection with the filing of these documents to Deposit Account No. 50-2518, referencing billing number 23915-7321.

Respectfully submitted,

Date: March 7, 2003

By: Antoinette F. Konski  
Antoinette F. Konski  
Registration No.: 34,202

Bingham McCutchen LLP  
Formerly McCutchen, Doyle, Brown & Enersen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, CA 94111  
Telephone: (650) 849-4400  
Facsimile: (650) 849-4800

BINGHAM McCUTCHEN

# Facsimile

DATE March 7, 2003

	NAME	FAX	PHONE
TO	Attn: Office of Petitions, Box DAC	(703) 308-6916	

FROM Antoinette F. Konski (650) 849-4800 (650) 849-4950  
Antoinette.konski@bingham.com

PAGES (INCLUDING THIS COVER PAGE):9

Application Serial No. 08/993,946

RE Request for Continued Examination and Petition to Revive

**Message:**

Bingham McCutchen LLP  
1900 University Avenue  
East Palo Alto, CA  
94303-2223

650.849.4400  
650.849.4800 fax

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PTO/SB/21 (08-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)		Application Number	08/893,946
		Filing Date	December 18, 1997
		First Named Inventor	Thomas A. Silvestrini
		Group Art Unit	3728
		Examiner Name	D. Willse
Total Number Of Pages In This Submission	8	Attorney Docket No.	AT 2038.00

**ENCLOSURES (check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Request for Continued Examination, Supplemental Communication and Return Postcard
<input type="checkbox"/> Supplemental Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

**FAX RECEIVED****MAR 07 2003****PETITIONS OFFICE****SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm or Individual Name	Antoinette F. Koski Bingham McCutchen LLP Three Embarcadero Center, Suite 1800 San Francisco, California 94111
Signature	<i>Antoinette F. Koski</i>
Date	<i>March 7, 2003</i>

**CERTIFICATE OF FACSIMILE**

Pursuant to 37 C.F.R. § 1.8(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Office of Petitions, Box DAC, Commissioner for Patents at Facsimile No. (703) 308-6916.

March 7, 2003*Peggy Nichols*

Peggy Nichols

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PTO/SB/M7 (09-01)

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**FEE TRANSMITTAL  
FOR FY 2003****DUPLICATE COPY  
FOR FEE PROCESSING**  
Patent fees are subject to annual revision.**Complete If Known**

Application Number	08/993,948
Filing Date	December 18, 1997
First Named Inventor	Thomas A. Silvestri
Examiner Name	D. Willis
Group Art Unit	3738
Attorney Docket No.	AT 2036.00

**FAX RECEIVED****MAR 07 2003****PETITIONS OFFICE****TOTAL AMOUNT OF PAYMENT**(\$)**1,020.00****METHOD OF PAYMENT**

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: **50-2518**

Deposit Account Name: **Bingham McCutchen LLP**

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
- ☒ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Credit Card ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	180	2005	90	Provisional filing fee	

SUBTOTAL (1) (\$)

**2. EXTRA CLAIM FEES**

Total Claims	Extra Claims	Fee from below	Fee Paid
- 20** =	-	X	\$
Independent Claims	- 3** =	X	\$
Multiple Dependent			\$

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1202	18	2202	9	Claims in excess of 20	
1201	84	2201	42	Independent claims in excess of 3	
1203	280	2203	140	Multiple dependent claims, if not paid	
1204	84	2204	42	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)

\*\* or number previously paid, if greater; For reissue, see above.

**FEE CALCULATION (continued)**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	650.00
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1480	130	1480	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1808	180	1808	180	Submission of Information Disclosure Sheet	
8021	40	8021	40	Recording each patent assignment per properties (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(e))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	375.00
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

**SUBMITTED BY**

Name (Print/Type)	Antoinette E. Kopski	Registration No. (Attorney/Agent)	34,202	Telephone	(650) 849-4950
Signature	<i>Antoinette E. Kopski</i>	Date	March 7, 2003		

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